

ESTTA Tracking number: **ESTTA139623**

Filing date: **05/09/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cherokee Nation, a federally recognized Indian Tribe
Granted to Date of previous extension	05/09/2007
Address	17675 S. Muskogee Tahlequah, OK 74464 UNITED STATES
Attorney information	Anthony J. Jorgenson Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C. 320 South Boston Avenue Suite 400 Tulsa, OK 74103 UNITED STATES ajorgenson@hallestill.com Phone:918.594.0631

Applicant Information

Application No	78831782	Publication date	01/09/2007
Opposition Filing Date	05/09/2007	Opposition Period Ends	05/09/2007
Applicant	The North-Eastern Band of Cherokee Indians 388-90 Grand Concourse #1 The Bronx, NY 10451 UNITED STATES		

Goods/Services Affected by Opposition

Class 200. All goods and services in the class are opposed, namely: Indicating membership in an Indian Tribe consisting of descendants of Cherokee Indians now living in the North-Eastern United States

Grounds for Opposition

Immoral or scandalous matter	Trademark Act section 2(a)
Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	The mark has not acquired sufficient distinctiveness under Trademark Act section 2(f).

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
-----------------------------------	------	------------------	------

Registration Date	NONE
Word Mark	CHEROKEE NATION
Goods/Services	governmental services, social services, financial services, educational services

Attachments	doc059.PDF (5 pages)(208322 bytes)
-------------	---------------------------------------

Signature	/Anthony J. Jorgenson/
Name	Anthony J. Jorgenson
Date	05/09/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No.: 78831782
For the mark: THE NORTH-EASTERN BAND OF CHEROKEE INDIANS
Published in the Official Gazette on: January 9, 2007

CHEROKEE NATION

v.

Opposition No. _____

**THE NORTH-EASTERN BAND OF
CHEROKEE INDIANS**

NOTICE OF OPPOSITION

Cherokee Nation, a federally recognized Indian Tribe
17675 S. Muskogee
Tahlequah, OK 74464

The above-identified opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a federally recognized Indian tribe that provides governmental, social, financial, educational, and other services to its tribal citizens. There are approximately 109,724 citizens who live within Opposer's Tribal Jurisdictional Service Area and approximately 268,761 citizens dispersed throughout the world.
2. Opposer has used the mark **CHEROKEE NATION** in conjunction with its governmental, social, financial, educational, and other services since at least 1791 (Treaty of

Holston, July 2, 1791), Opposer's first treaty with the United States of America. Opposer's current governmental structure was established under the 1975 constitution, which was ratified by the Cherokee voters and was approved by the Secretary of Interior.

3. Since its initial use of its **CHEROKEE NATION** mark, Opposer has continuously used, advertised, promoted, and offered its governmental, social, financial, educational and other services under the **CHEROKEE NATION** mark with the result that individuals have come to know and recognize Opposer's **CHEROKEE NATION** mark and to associate the same with Opposer and/or Opposer's services.

4. On information and belief, on March 8, 2006, Applicant filed an Application for Registration of the collective membership mark **NORTH-EASTERN BAND OF CHEROKEE INDIANS**. The application was assigned Serial No. 78831782, and was published for opposition in the Official Gazette on January 9, 2007, identifying the collective membership mark as "[i]ndicating membership in an Indian Tribe consisting of descendents of Cherokee Indians now living in the North-Eastern United States," in International Class 200.

5. On information and belief, Applicant's organization purports to be the same and/or similar to Opposer and/or Opposer's services and is and/or will be advertised, promoted, and offered through the same and/or similar channels of trade and to the same general class of individuals as Opposer and/or Opposer's services are offered under Opposer's **CHEROKEE NATION** mark. In addition, on information and belief, the purported membership of Applicant's organization constitute "Cherokee Indians," which will be the same and/or similar to the citizens (members) of Opposer.

6. Applicant's **NORTH-EASTERN BAND OF CHEROKEE INDIANS** mark so closely resembles Opposer's **CHEROKEE NATION** mark that the registration and use of **NORTH-EASTERN BAND OF CHEROKEE INDIANS** by Applicant is likely to cause confusion, mistake and deception within the meaning of Section 2(d) of the Trademark Act of 1946 (15 U.S.C. § 1052(d)) and will result in irreparable damage and injury to Opposer.

7. Applicant's **NORTH-EASTERN BAND OF CHEROKEE INDIANS** mark so closely resembles Opposer's **CHEROKEE NATION** mark that the registration and use of **NORTH-EASTERN BAND OF CHEROKEE INDIANS** by Applicant will falsely suggest a connection with Opposer and its citizens in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)) and will result in irreparable damage and injury to Opposer.

8. Applicant's **NORTH-EASTERN BAND OF CHEROKEE INDIANS** mark is misrepresentative of citizenship (membership) in Opposer and deceptive in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)).

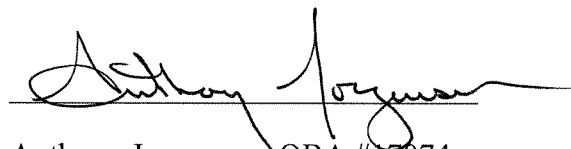
9. Applicant's **NORTH-EASTERN BAND OF CHEROKEE INDIANS** mark is being used in such a manner that the registration and use of **NORTH-EASTERN BAND OF CHEROKEE INDIANS** by Applicant will bring the Opposer and Opposer's **CHEROKEE NATION** mark into disrepute in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)) and will result in irreparable damage and injury to Opposer.

10. Applicant's **NORTH-EASTERN BAND OF CHEROKEE INDIANS** mark is not entitled to registration because Applicant's use of the **NORTH-EASTERN BAND OF CHEROKEE INDIANS** has been insufficient and therefore the mark has not acquired sufficient distinctiveness under Section 2(f) of the Trademark Act of 1946 (15 U.S.C. § 1052(f)).

11. Opposer believes that it will be damaged by the registration by Applicant of the **NORTH-EASTERN BAND OF CHEROKEE INDIANS** mark, as set forth in Applicant's Application Serial No. 78831782, and that, if registration on the opposed application is granted, and the presumptions accorded to such registration are conferred under the Trademark Act of 1946, as amended, Applicant will receive benefits to which it is not entitled, to the damage and detriment of Opposer, and its **CHEROKEE NATION** mark.

WHEREFORE, and in view of Opposer's prior use of the mark **CHEROKEE NATION** to which Applicant's mark is confusingly similar thereto, Opposer prays that this opposition be sustained and that registration of the mark **NORTH-EASTERN BAND OF CHEROKEE INDIANS**, based on Applicant's application Serial No. 78831782, filed March 8, 2006, for a collective membership mark, namely, purporting to indicate membership in an "Indian Tribe" consisting of descendants of "Cherokee Indians" now living in the North-Eastern United States, in International Class 200, be refused and denied.

Respectfully submitted this 9th day of May, 2007.

A handwritten signature in black ink, appearing to read "Anthony Jorgenson", written over a horizontal line.

Anthony Jorgenson, OBA #17074
**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**
320 South Boston, Suite 400
Tulsa, OK 74103
Telephone (918) 594-0400
Facsimile (918) 594-0505

and

A. Diane Hammons OBA #10835
Attorney General
Cherokee Nation
PO Box 948
Tahlequah, OK 74465-0948
Telephone (918) 453-5282
Facsimile (918) 458-5099

**ATTORNEYS FOR OPPOSER,
CHEROKEE NATION, A FEDERALLY
RECOGNIZED INDIAN TRIBE.**

731210.2:231613:00700